

1 ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
2 TENESA S. POWELL, ESQ.
Nevada Bar No. 12488
3 AKERMAN LLP
1635 Village Center Circle, Suite 200
4 Las Vegas, NV 89134
Telephone: (702) 634-5000
5 Facsimile: (702) 380-8572
Email: ariel.stern@akerman.com
6 Email: tenesa.powell@akerman.com

7 *Attorneys for The Bank of New York Mellon*
8 *fka The Bank of New York, as Trustee for The*
9 *Certificateholders CWMBS, Inc., CHL*
10 *Mortgage Pass-Through Trust 2006-3*
11 *Mortgage Pass-Through Certificates, Series*
12 *2006-3*

11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13 THE BANK OF NEW YORK MELLON FKA
14 THE BANK OF NEW YORK, AS TRUSTEE
15 FOR THE CERTIFICATEHOLDERS CWMBS,
16 INC., CHL MORTGAGE PASS-THROUGH
17 TRUST 2006-3 MORTGAGE PASS-THROUGH
18 CERTIFICATES, SERIES 2006-3,

19 Plaintiff,

20 vs.

21 TRACCIA COMMUNITY ASSOCIATION; SFR
22 INVESTMENTS POOL 1, LLC; and NEVADA
23 ASSOCIATION SERVICES, INC.,

24 Defendants.

Case No.: 2:17-cv-01802-JCM-NJK

**STIPULATION AND ORDER RE: SECOND
AMENDED NOTICE OF RULE 30(b)(6)
DEPOSITION OF THE BANK OF NEW
YORK MELLON FKA THE BANK OF
NEW YORK, AS TRUSTEE FOR THE
CERTIFICATEHOLDERS CWMBS, INC.,
CHL MORTGAGE PASS-THROUGH
TRUST 2006-3 MORTGAGE PASS-
THROUGH CERTIFICATES, SERIES
2006-3**

25 Plaintiff The Bank of New York Mellon fka The Bank of New York, as Trustee for The
26 Certificateholders CWMBS, Inc., CHL Mortgage Pass-Through Trust 2006-3 Mortgage Pass-Through
27 Certificates, Series 2006-3 (**BoNYM**)) and SFR Investments Pool 1, LLC (**SFR**) stipulate as follows:

28 1. SFR served a notice of Rule 30(b)(6) deposition continuing 14 topics on BoNYM on
February 15, 2018. The deposition is scheduled for March 8, 2018.

2. SFR served a substantially similar notice of Rule 30(b)(6) deposition on Bank of America, N.A. (**BANA**) in *Bank of Am., N.A. v. Lake Mead Court Homeowners' Ass'n et al*, D. Nev. Case. No. 2:16-cv-00504-GMN-NJK. BANA, through Akerman LLP (who also represents BoNYM in this case) initially disputed seven of the thirteen noticed topics: (1) **topic 5**, which seeks information concerning BANA's alleged damages; (2) **topic 6**, which seeks information concerning what investigation, if any, BANA made into title or encumbrances before acquiring an interest in the deed of trust; (3) **topic 7**, which seeks information concerning what investigation, if any, BANA made into title or encumbrances before the HOA's foreclosure sale; (4) **topic 8**, which seeks information concerning BANA's acquisition of its interest in the note and deed of trust; (5) **topic 9**, which seeks information concerning BANA's "knowledge regarding creation, execution and recording" of the recorded assignment(s); (6) **topic 11**, which seeks information concerning BANA's communications with its "predecessor in interest" regarding the HOA's CC&Rs "and title or encumbrances;" and (7) **topic 12**, which seeks information concerning "[a]l facts and circumstances in which [BANA] contend[s] that [the HOA] and its foreclosure agent failed to comply" with NRS chapter 116 in conducting the foreclosure sale (collectively, the **disputed topics**).

3. BANA and SFR met and conferred concerning the disputed topics pursuant to L.R. 26-7 in connection SFR's deposition notice in *Lake Mead*. SFR agreed to limit or withdraw four of the seven disputed topics based on the meet and confer. To avoid unnecessary fees and costs, BoNYM and SFR stipulate to apply the agreement BANA and SFR reached in the *Lake Mead* meet and confer to SFR's notice of deposition in this case as set forth below:

a. **Topic 6:** SFR's inquiry into topic 6 shall be limited to investigations into title that revealed Traccia Community Association's lien.

b. **Topic 7:** SFR's inquiry into topic 7 shall be limited to investigations into title that revealed Traccia Community Association's lien and/or foreclosure notices.

c. **Topic 11:** SFR's inquiry into topic 11 shall be limited to communications between BoNYM and its "predecessor in interest" regarding Traccia Community Association's foreclosure notices, CC&Rs and lien.

1 d. **Topic 12:** SFR has already or will seek the information it seeks to obtain
2 through deposition topic 12 via an interrogatory. BoNYM agrees to substantively respond to SFR's
3 interrogatory subject to any written objections. SFR will withdraw deposition topic 12 when BoNYM
4 serves its interrogatory response.

5 4. BANA and SFR were unable to resolve their dispute concerning the remaining three
6 disputed topics (*i.e.*, topics 5, 8 and 9) during their *Lake Mead* meet and confer but, to avoid litigation
7 costs and unnecessarily burdening the Court with substantially-similar motions for protective order
8 and agreed the parties will apply the Court's ruling in other similarly-situated cases. BANA moved for
9 a protective order in *Lake Mead* on January 24, 2018. The motion remains pending.

10 5. Pursuant to the agreement reached in the *Lake Mead* meet and confer, BoNYM and
11 SFR agree the Court's order on BANA's motion for protective order in *Lake Mead*, D. Nev. Case No.
12 2:16-cv-00504-GMN-NJK, ECF No. 70, shall apply to SFR's notice of deposition in this case. SFR
13 further stipulates BoNYM's deposition in this case is stayed as to all topics pending the Court's ruling
14 on BANA's motion for protective order in *Lake Mead*. SFR and BoNYM will confer about a
15 mutually-agreeable deposition date once an order enters in *Lake Mead*.

16 ...

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28

6. BoNYM and SFR jointly request the Court approve this stipulation as an order of the Court.

DATED March 7, 2018.

AKERMAN LLP <u>/s/ Tenesa Powell</u> ARIEL E. STERN, ESQ. Nevada Bar No. 8276 TENESA S. POWELL, ESQ. Nevada Bar No. 12488 1635 Village Center Circle, Suite 200 Las Vegas, Nevada 89134 <i>Attorneys for The Bank of New York Mellon fka The Bank of New York, as Trustee for The Certificateholders CWMBBS, Inc., CHL Mortgage Pass-Through Trust 2006-3 Mortgage Pass- Through Certificates, Series 2006-3</i>	KIM GILBERT EBRON <u>/s/ Diana S. Ebron</u> DIANA S. EBRON, ESQ. Nevada Bar No. 10580 JACQUELINE A. GILBERT, ESQ. Nevada Bar No. 10593 KAREN L. HANKS, ESQ. Nevada Bar No. 9578 7625 Dean Martin Drive, Suite 110 Las Vegas, NV 89139 <i>Attorneys for SFR Investments Pool 1, LLC</i>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ORDER

IT IS SO ORDERED:


UNITED STATES MAGISTRATE JUDGE

DATED: March 8, 2018